THE THIRD DAY.

Thursday, the 6th March, 1930.

The Assembly met again at 11-30 A. M. on the 6th March, 1930, the Dewan presiding.

22. Judicial Administration.

MR. S. M. SUBRAHMANYAM (*Nominated*) first spoke about the delay in the disposal of suits in civil courts. He said that the chief causes of delay were the following and suggested measures to avoid the same :—

(1) Improper service of processes which led to *ex parte* decisions and re-enquiry. Proper service of processes on the persons concerned should be insisted on in all cases.

(2) Parties also evaded service of summonses deliberately with a view to prolong the duration of suits. They often waited till the decrees were ready for execution and then applied for re-enquiry. In such cases, the parties should be asked to deposit the decree amounts before fresh enquiry was allowed.

(3) Delay in framing issues was very common. This could be avoided if it be ruled that issues should be framed within 15 days after filing the written statements and that with the knowledge of both the parties.

(4) Witnesses were not examined on the days on which they were summoned. Cases were unnecessarily adjourned causing loss and inconvenience to both parties. Even after examination of witnesses, there was delay in hearing and pronouncing judgments. The High Court should be asked to issue orders to finish small cause cases within 6 months, civil cases within 2 years and appeal cases within one year. It should also be ruled that judgments should be pronounced within one week after the final hearing.

(5) Decrees were not prepared even after 3 or 4 months after judgments were delivered. Stringent orders should therefore be issued for issuing the decrees on application within 3 weeks after the date of the judgment.

The following points relating to delay in the execution of decrees were then dealt with :—

(1) Applications for execution of decrees were not promptly disposed of. Before orders could be passed on such applications, the judgment debtors disposed of their property and evaded arrest on warrant by hiding themselves till the period of the warrant expired. That should be prevented and the practice obtaining in British India and Cochin, of treating such applications as emergent when double the usual process fees were deposited, should be adopted in Travancore also.

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(2) Reports about escape of arrested judgment debtors were not dealt with promptly and seriously. Stringent orders should be issued to deal with such reports promptly and to prosecute the persons responsible for the escape.

(3) In the case of sales in auction of immovable property, if the date of final auction unexpectedly happened to be a holiday, the whole auction proceedings had to be gone through *de novo*. This caused loss and inconvenience to parties. It should therefore be ruled that, in such cases, the auction should be conducted on the next working day without further notice.

(4) When judgment debtors were arrested on warrants, they were easily let on bail, provided they expressed their intention to present insolvency petitions. If the security offered happened to be worthless, the judgment creditors were subject to considerable loss and hardship. This rule should therefore be abrogated.

(5) As all the civil courts were over worked, they could hardly find sufficient time to devote to execution work, with the result that the judgment debtors arrested on warrant could not obtain relief in time and their properties could not be properly disposed of.

All the above-said delays could be avoided if separate execution courts were opened and the member requested that his suggestion might be seriously considered by the Government.

According to the Civil Procedure Code Amendment Regulation of 1101, the interest allowable on debts was 12 per cent. per annum during the pendency of suits and 9 per cent. per annum after decree. That amendment had not been brought into effect in all courts. Orders should be issued to give effect to it immediately. Again the courts were not allowing the interest agreed to by the parties. That defect should also be remedied.

The Panchayat Court Regulation required amendment in the following respects:—

(1) The monetary jurisdiction of Panchayat Courts should be raised to Rs. 100 so as to afford relief to the local Munsiffs.

(2) The Panchayat Court judges should have power to issue warrants. If the power could not be granted, the Munsiffs' courts to which such cases were transferred should be asked to issue warrants without fresh processes.

(3) The Panchayat Court judges should be empowered to award vakils' fee also in their judgments.

The member also suggested that the Panchayat Courts should be periodically inspected by the High Court Judges.

The Nagercoil Village Panchayat and Bench Magistrate's Courts were held in the upstair rooms of the local Stationary Magistrate's Court building. There was hardly room in that building for holding the courts, for keeping the records and for the parties to assemble. The court should therefore be removed to another building to be newly

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put up in the premises of the local Munsiff's Court. If that was not feasible, it might be removed to the downstair rooms of the local Municipal Office buildings.

About 10 years ago, there were First Class Magistrates' Courts at Nagercoil and Edalakudi and a Second Class Magistrate's court at Bhutapandi to serve the needs of the Agastisvaram and Tovala taluks. Subsequently, those courts were abolished and in their place a Second Class Magistrate's Court alone was opened at Nagercoil. That was a source of great inconvenience to the people of those taluks as they had now to go to Padmanabhapuram in connection with first class magisterial cases. A First Class Magistrate's Court at Nagercoil should be opened at an early date. It was an important town with a District and Sessions court, a College and other institutions.

Lastly, the member urged the need for bringing into operation the Village Panchayat Regulation which was passed about 6 years ago.

DEWAN'S REPLY: Mr. Subrahmanyam, நீங்கள் சொல்லியிருக்கிற விஷயங்கள் காலுக்கும், இப்பொழுது இவ்விஷயமாக ஏற்படுத்தப்போகிற லாஸ்டிலேஸ் ஆபீஸர் மூலமாக விசாரித்து அறியவேண்டியதாயிருக்கிறது. அவைகளை எல்லாம் அந்த ஆபீஸர் விசாரிப்பார். பாக்கி விஷயங்களை ஹைக்கோர்ட்டார் விசாரித்து ஆலோசிப்பார்கள். வில்லேஜ் பஞ்சாயத்து சங்கதிகளைக் கூறினீர்களே. திருவிதாங்கூர் சமஸ்தானத்திலுள்ள எல்லா பாகங்களிலும் வில்லேஜ் பஞ்சாயத்து ரெகுலேஷனை செய்கைக்குக் கொண்டுவரமுடியுமோ என்பதனைக்கு சந்தேகம். ஆகிலும் ரெகுலேஷனை கடைபிற்குக் கொண்டுவர வேண்டுமென்பது கவர்மெண்டின் உத்தேசம். அதை அனுசரித்து தாமதியாமல் கவர்மெண்டார் ஏற்பாடு செய்வார்கள். வேறு சொல்லியிருக்கிற சமாசாரங்களை ஹைக்கோர்ட்டாரைக் கேட்டுதான் ஏற்பாடு செய்ய வேண்டும்.

[The first four points have to be enquired into by the Law's Delays Officer. The other points will be enquired into by the High Court.

As regards the Village Panchayat Regulation, the Government propose to bring its provisions into operation at an early date. But it is doubtful whether its operation can be usefully extended throughout the State.

The remaining points will be referred to the High Court.]

23. Need for a Regulation thoroughly revising the Jenmi and Kudiyan Regulation, V of 1071.

MR. C. V. AIPORAH (*Vaikam taluk*) said that the subject he was going to represent was an old one which had been pressed at several sessions of the Assembly. The operation of the Jenmi and Kudiyan Regulation, V of 1071, affected a large number of the subjects of the State as they came under the category of *kudiyans*. He emphasised the need for a thoroughly revised Regulation in place of the existing one which was defective in several ways, particularly in the directions indicated below:—

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